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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re SOPHIA B., et al., Persons Coming  
Under the Juvenile Court Law.

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JACK B.,

Petitioner,

v.

SUPERIOR COURT OF THE STATE OF  
CALIFORNIA FOR THE COUNTY OF  
LOS ANGELES,

Respondent;

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

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Real Party in Interest.

B271041

(Los Angeles County  
Super. Ct. No. CK84920)

Petition for extraordinary writ. Superior Court of Los  
Angeles County, Marilyn Kading Martinez, Commissioner.  
Petition denied.

Los Angeles Dependency Lawyers; Law Office of Marlene Furth, Jody Marksamer and Carolina Villamil for Petitioner, Jack B.

Children's Law Center of California, Ronnie Cheung and Patsy Moore, for minors Sophia B. et al.

No appearance for Respondent.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County Counsel, Jessica S. Mitchell, Deputy County Counsel for Real Party in Interest.

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This petition for extraordinary writ filed by Jack B. (father) seeks review of a juvenile court order terminating father's reunification services and setting a Welfare and Institutions Code section 366.26 hearing.<sup>1</sup> Father urges he is entitled to additional reunification services because the services he was provided were not reasonable, and that the juvenile court erred in terminating his visitation with his daughter Sophia (currently age 17).<sup>2</sup> We find no error in the juvenile court's order, and thus we deny the petition.

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<sup>1</sup> All subsequent statutory references are to the Welfare and Institutions Code.

<sup>2</sup> Daphne B. (mother) is not a party to this proceeding.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **I.**

#### **Prior Child Welfare History**

In October 2010, the Los Angeles County Department of Children and Family Services (DCFS) detained Sophia B. (born in September 1999) and Evan B. (born in November 2003) from mother and placed them with father. In January 2011, the juvenile court sustained a petition alleging that the children were juvenile court dependents pursuant to section 300, subdivision (b), due to mother's substance abuse and father's failure to protect. In August 2011, juvenile court jurisdiction was terminated with a family law order giving father full legal and physical custody of the children.

### **II.**

#### **Current Detention**

In September 2013, mother, who was a patient at a substance abuse treatment center, reported concerns about the children's health and well-being. A children's social worker (CSW) visited father's home and observed that the kitchen and bathrooms were dirty and the home smelled strongly of urine. Father reported that both children took medication for attention deficit hyperactivity disorder (ADHD) and depression, but that neither child was in therapy. In the children's presence, father said that "he does everything for the kids and the mother is just an unhelpful drunk," and he encouraged the children to tell the CSW "how the mother has ruined their lives." The CSW then attempted to interview both children privately, but father walked into the room as the CSW spoke to each child; the CSW characterized the children's answers as "rehearsed."

The CSW interviewed maternal aunt Yvonne and her husband Henry.<sup>3</sup> Yvonne said she was fearful of speaking to the CSW because father had threatened to keep her away from the children if she spoke negatively about him. Yvonne said that father had kept a filthy home for years, noting that she and Henry once removed 20 pounds of dog feces from the house. Yvonne noted that for years father had degraded mother in front of the children and emotionally abused the children. She showed the CSW a video she had taken when she returned the children to father one weekend: “In the video, which [the] CSW viewed, the father is cursing and yelling at both kids saying, ‘Get your fucking asses in the house and clean up.’ . . . CSW could hear a time when the father was yelling at Evan. CSW heard Evan say, ‘Stop pushing me dad’ and then Henry told the father to lay his hands off the kids. . . . [¶] Yvonne said these types of incidents happen all the time. . . . She said the kids have been calling her saying their dad is always angry, and yelling and cursing at them.”

On October 18, 2013, the CSW made an unannounced visit with mother to father’s home. The CSW described the home as follows: “CSW walked into the living room and immediately saw multiple pieces of dog poop in the living room. Also in the living room was fast food trash on the floor and the smell of urine was horrific. . . . [¶] CSW then went into the kitchen and observed dirty counters and a dirty non-working stove. CSW opened the refrigerator, which was filled with old and new food, was

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<sup>3</sup> Henry is sometimes referred to as Yvonne’s boyfriend. It is undisputed that Henry and Yvonne lived together throughout the pendency of this case.

extremely dirty and messy. . . . [¶] CSW walked into two bathrooms. One has a huge bathtub that was dirty with no curtains. The toilet appeared to have been not clean[ed] for a long time. The other bathroom had dog or cat poop filled up on the shower floor and a filthy toilet.

“CSW then walked up the stairs. . . . CSW and the mother almost threw up [upon entering the upstairs bedroom]. The room had no less than one hundred pieces of dog and cat poop; old and new poop. The room was filthy.”

The CSW obtained a removal order, and the children were removed from father and placed with Yvonne and Henry on October 23, 2013. “Sophia was initially very upset about being removed from her father and was crying heavily. Sophia was saying she can’t leave her father because he needs her and she doesn’t care about how he treats her and doesn’t care how dirty the house has become. . . . Evan was also crying about being removed from his father, but he told CSW he hates being yelled at all the time and gets scared of his father when he is angry. Evan said [his] father screams at them and curses and calls them names like ‘idiots and dumb asses.’ Evan said that his father tells them if they can’t keep the house clean they will have to go live in foster homes and not with [relatives] or their mother. Evan said his father talks badly about his mother all the time and calls her a loser and for a long time didn’t let him see her. He said he would feel very safe and comfortable at his aunt[’s] and uncle[’s] house.”

DCFS held a team decision meeting on October 24, 2013. DCFS described father as “unable to take any responsibility for the removal of his kid[s]. He blamed the mother, his health, the kid[s’] special needs, the relatives, and finances on his inability to

keep the house clean and the yelling in the home. He said the anxiety that Evan has is due to the mother's poor influence and parenting when she lived in the home, which is over three years ago. The father was very angry and wants the kid[s] released to him right away."

In a "Last Minute Information for the Court," DCFS advised that since the children were detained, father "has been trying to explain to CSW how the children are very difficult and if they had just been easier kid[s] to raise this would not have happened. The father continues to blame the children for his dirty home and the fighting that goes on in his home."

### **III.**

#### **Petition**

DCFS filed a juvenile dependency petition on October 28, 2013.<sup>4</sup> The juvenile court found a prima facie case for detaining the children and finding them persons described by section 300, subdivision (b), and ordered DCFS to provide father reunification services, including weekly monitored visits.

### **IV.**

#### **Jurisdiction/Disposition Reports**

##### **A. *Therapeutic Assessments***

A letter from Sophia's therapist, dated February 21, 2014, stated that Sophia had been diagnosed with dysthymic disorder (also referred to as depressive disorder) and ADHD, "secondary to . . . symptoms including daily crying episodes, depressed mood, intermittent headaches and stomach pains, explosive behaviors when angry, isolation when sad[,] and ongoing difficulty with

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<sup>4</sup> The original petition was superseded by the first amended petition, discussed below.

attention and concentration.” Sophia was receiving medication management, weekly individual therapy sessions, and collateral and family therapy sessions with her aunt and uncle, and was reporting some improvement. The therapist recommended continued individual and family therapy, continued psychiatric care, “[o]ngoing consideration of conducting conjoint therapy with Sophia and her parents,” and “[s]upport of aunt, uncle, mother and father to establish a more collaborative relationship toward meeting Sophia’s and her brother’s needs.”

A letter from Evan’s therapist, also dated February 21, 2014, stated that Evan’s current diagnosis was “Anxiety Disorder Not Otherwise Specified (NOS), as evidenced by his symptoms including excessive worrying, hypervigilance, specific phobias (e.g., elevators, claustrophobia), distractibility, and hyperarousal.” The therapist recommended that Evan continue to receive psychotropic intervention and to attend weekly therapy sessions.

In June 2014, the court ordered conjoint counseling between father and the children “upon the recommendation of the therapist.”

In July 2014, Evan’s therapist advised the court that Evan had been diagnosed with post-traumatic stress disorder (PTSD). The therapist said Evan’s coping skills had improved and his anxiety had decreased through therapy, and she recommended that Evan continue in therapy to work to reduce his anxiety. Sophia’s therapist advised that through treatment, Sophia had improved her frustration tolerance, concentration, and follow-through, reduced arguments with her caregivers and her brother, and increased her willingness to speak about difficult experiences. In October 2014, DCFS informed the court that the

children's therapists did not believe the children were ready for conjoint therapy.

*B. Visitation*

A DCFS report, dated December 17, 2013, said scheduling visits for father had been difficult because father asked DCFS to live-scan several individuals, but then changed his mind about allowing those individuals to monitor his visits; the maternal aunt and uncle were unwilling to supervise father's visits because father was aggressive, confrontational, hostile, and argumentative with them; and father refused to accept professional monitors. Further, "[a]s to father's telephone contacts with the children, it has been reported to DCFS by the caregivers that father has been discussing the case and matters regarding mother with the children despite many warnings by the caregivers and DCFS."

DCFS permitted father to have unmonitored visits with the children in January and February 2014. However, on February 27, DCFS advised the court that Yvonne and Henry had caught Sophia smoking and lying, and as a consequence had taken away her texting and internet access on her cell phone. During an unmonitored visit, father had secretly given Sophia a phone with texting and internet capability because he did not want the caregivers to discipline her. DCFS therefore requested that father's visits and phone calls be monitored. DCFS also noted that following a team decision meeting, Sophia's therapist was recommending that she (the therapist) meet individually with the parents for many sessions before having any conjoint sessions with the children. Finally, "Father's behavior toward the caregivers as well as DCFS staff continues to be hostile and demanding and father continues to undermine caregivers'



authority with regard to decision making and discipline of the children. Father still is adamant he is not at fault and that everyone else, including the children, are to blame for the situation that brought the family to DCFS attention. Due to father's negative behavior and his continued violation of DCFS directions that there should be no discussion of the case with the children, father encouraging the children to not cooperate with the caregivers[,] and father being inappropriate during his unmonitored visits and phone calls . . . DCFS respectfully recommends father's visits and phone calls be monitored at this time."

On February 27, 2014, at DCFS's recommendation, the court ordered father's visits to be monitored. Father had regularly scheduled, monitored visits with the children in March, April, and May.

In about June 2014, Sophia began refusing visits with father. DCFS counseled the caregivers that "[p]arent visits take precedence over everything unless it is school and counseling" and that plans with friends must be scheduled around parent visits, not the other way around. Visits occurred with father and both children on June 11, 15, and July 10; with Evan only on June 22; and with Sophia only on June 29. On July 24, 2014, Yvonne emailed the CSW that Sophia did not want to visit with father, and asked what she should do. The supervising CSW (SCSW) said DCFS was required to coordinate visits and to encourage the children to participate, but that it could not force the children to attend.

The record does not contain information about visits in July, August, or September, 2014. In October, father visited both children on October 5, and Evan only on October 19. Both

children refused to attend a visit scheduled for October 26. Following the missed October 26 visit, DCFS asked the parents, caregivers, and children to attend a Child and Family Team (CFT) meeting to address visitation.

## **V.**

### **First Amended Petition; Jurisdiction/Disposition Hearing**

The court held a jurisdiction/disposition hearing on October 9, 2014. The operative first amended petition alleged: (b-1) Sophia and Evan have special needs, and father has cancer and has been undergoing treatment. As a result, due to his physical limitations, father periodically has been unable to meet the children's needs, including maintaining a safe and hygienic home for the children. Further, on occasion father has been verbally insulting and demeaning to the children, which has caused them emotional distress and resulted in their refusal to participate in some visits with him. (b-2) Mother has an unresolved history of substance abuse, including alcohol, which renders mother periodically unable to provide care and supervision of the children. (c-1) On an ongoing basis, father emotionally abused the children by calling them demeaning, derogatory and degrading names, including "bitch" and "idiot." The children have demonstrated depression and emotional distress due to father's emotional abuse.

The court sustained counts b-1 and b-2 of the petition. It ordered father to participate in individual counseling to address anger management and appropriate parent/child interaction, and granted father unmonitored visitation after two conjoint counseling sessions. DCFS was ordered to provide conjoint counseling to father and the children "forthwith."

## **VI.**

### **CFT Meeting and Conjoint Counseling**

On November 6, 2014, DCFS advised that father was participating in individual therapy, but had not provided proof that he was attending a parenting class. The children's therapists still were not recommending conjoint counseling.

A CFT meeting was held December 30, 2014. The parties agreed that father would have unmonitored visits with the children on Tuesdays, times to be arranged by father and children, and father would have unmonitored phone calls with the children on their cell phones.

The children had four conjoint therapy sessions with father in December 2014. However, in mid-January, the children's therapists advised discontinuing conjoint therapy, noting that Evan's anxiety had increased and Sophia was having more frequent angry outbursts.

## **VII.**

### **Father's Call to Child Abuse Hotline;**

### **Children's Refusal to Continue Visiting Father**

In January 2015, DCFS received a child abuse hotline report that Sophia and Evan were victims of emotional abuse and general neglect by their caregivers. The caller reported that Henry used marijuana and alcohol, watched Sophia when she got dressed, and allowed Sophia to sit on his lap while she was wearing shorts. The caller also stated the caregivers were not providing the children with ADHD medication, made it difficult for the parents to visit the children, and were disrespectful towards father.

DCFS made an emergency visit to the caregiver's home on January 19. Both children denied sexual or physical abuse, and

said they were very angry at father for making up lies and calling DCFS. When she learned of the abuse allegations, Sophia said, “You [the CSW] can talk to me but fuck him [father]. I hate him. He does this all the time.” Sophia said father called in referrals frequently and that “it’s all a lie.” Sophia said she loved living with Yvonne and Henry and that there were no problems. Evan began crying and said, “I hate my dad. He always does this. Can’t we just be happy?” When the CSW asked what father was doing, Evan said, “He calls you guys all the time. There’s nothing bad happening here. I like it here. . . . We live by the beach and my aunt is so nice to us.” He said his uncle was also “so nice to us. He plays games with us and he’s just nice.”

Yvonne reported that prior to the emergency visit, father had attended Evan’s soccer game but refused to get out of his car to watch the game. At the end of the game, father blocked the parking lot exit with his car and ordered the children to get into his car. When Yvonne intervened, father began “cursing[,] yelling ‘They are my fucking kids.’” Yvonne said that during a phone conversation with Sophia later that day, father admitted making the report to DCFS because “‘you are not talking to me and you don’t want a visit.’” During a subsequent phone conversation between father and the CSW, father admitted that he had made the report to DCFS, saying that the aunt was not allowing him to see the children and had cursed at him.

As of January 17, 2015, the children were refusing all visits with father. On January 28, 2015, another CFT meeting was held to discuss counseling and visitation; father blamed the caregivers for a lack of cooperation and assistance with visitation.

## **VIII.**

### **February 11, 2015 Hearing Regarding Visitation and Conjoint Counseling**

In a “Last Minute Information for the Court” dated February 11, 2015, DCFS said it had spoken to both children about conjoint counseling and visits with father. Evan told the CSW he liked living with his aunt and uncle and did not want to see his dad “ ‘because of all that happened.’ ” Sophia said the same. Both children requested that any future visits with father be monitored.

A letter from the children’s therapists (dated February 10, 2015) said that Evan and Sophia continued to engage in individual and family therapy and had been consistent in their attendance; they also had participated in conjoint sessions with father in December. “[In January], focus of treatment shifted to engaging in only individual psychotherapy with Evan and Sophia to address their continued need for learning coping skills to manage ongoing familial stress. Conjoint sessions with [father] were suspended at that time. Currently, Evan and Sophia have both verbalized in therapy their desire to suspend telephone calls and visitation with [father]. . . . In our clinical opinion, it will be increasingly difficult to schedule consistent phone calls and/or visitations at this time given Evan and Sophia’s aforementioned verbalized wishes.”

On February 11, 2015, the court ordered that father’s visits be monitored at DCFS’s office; there would be no phone calls or texts between parents and children; and conjoint counseling between father and the children should occur “upon the recommendation of the therapist.”

In March 2015, Yvonne reported Sophia was continuing to refuse visits with father. Evan had one visit with father the week before, but told the CSW that he did not want to see father and had nothing to say to him.

## **IX.**

### **Six Month Status Review Report**

The six month status review report and “Response to WIC 388 Report,” dated April 9, 2015, said that since February 11, 2015, father had had no visits with Sophia, and only one visit with Evan. Initially the children were taken to the Torrance office by the caregivers, but the children would refuse to see father.

Attached to the April 9 report was a letter from the children’s therapists, which said the children had consistently been participating in individual therapy to address “increased difficulties adjusting to family related stress.” Over the past six months, in addition to individual therapy, the therapists had conducted separate collateral sessions with mother and father, family sessions with father, and family sessions with Yvonne and Henry. Both children currently were stating they did not want to have contact with father. The therapists opined: “The history of monitored and unmonitored contact between Evan and Sophia and [father] appears to be counterproductive to the enhancement of the parent-child relationship as evidenced by Evan and Sophia’s reported decreased desire to have contact with [him]. [¶] . . . In order to best assist Evan and Sophia meet their treatment goals of learning to engage in healthy and adaptive coping skills and meet age appropriate developmental milestones, it is strongly recommended that [father] acknowledge and respect Evan and Sophia’s stated desires, thoughts, and feelings.”

A supplemental report, dated July 1, 2015, said the children remained adamant that they would not see father. When the CSW asked the children about visits with father, Sophia “[became] very upset[,] flushed in the face[, and] stated, “ ‘I’m not ready to see him, I don’t want to see him. He ruins everything!’ ” Evan put his head down and looked down at his lap, and said he would not like to see his father because his father screams and causes trouble. He said he did not want to try conjoint counseling again because he did not want to hear his father yell. CSW asked Evan to think about giving conjoint counseling one more try.

A June 23, 2015 letter from the children’s therapists stated that since December 2014, Sophia and Evan had consistently expressed a desire to discontinue conjoint therapy with father. The therapists readdressed this issue in weekly sessions, but both children continue to refuse to participate in conjoint therapy. The therapist recommended that the children not be forced to have contact with father until they were ready.

On July 1, 2015, the court ordered DCFS to arrange for conjoint counseling between father and children with a licensed therapist. On August 7, 2015, the court ordered such counseling to commence “forthwith.”

Throughout August, father continued to contact DCFS to accuse the caregivers of misconduct. At various times, father said Henry smoked marijuana, was an alcoholic, smoked crack, was a “pimp,” and should be removed from the home because he was a danger to the children. Father also said Evan was suicidal and should be hospitalized, and that the caretakers’ home was inadequate.

On August 21, 2015, Dr. Greg Allen agreed to do conjoint counseling. Father and the children had a conjoint session on September 16, which Dr. Allen believed had gone well; the next day, however, Sophia reported feeling uncomfortable with the way father questioned her about school, grades, medicine, and visits. On October 15, Dr. Allen advised the court that the children did not want to continue conjoint counseling.

## **X.**

### **Six-Month Review Hearing**

The six-month review hearing was originally set for April 9, 2015, almost two years after the children's detention, and ten months after the jurisdiction/disposition hearing. It was continued several times, ultimately commencing on August 3, 2015, and continuing through March 1, 2016.<sup>5</sup>

#### *A. Testimony*

Sophia testified that the last time she saw father was at Evan's soccer game in January 2015. Father disappointed her because he pressured her to see him, but then he would not get out of his car to watch the game with her. When she got home a couple of hours after the game ended, DCFS was at her house and asked whether Henry had been sexually inappropriate with her at the game. Sophia said nothing of the sort had happened, and father "just called for no reason." Sophia said she stopped accepting phone calls and texts from father because they were "[t]oo stressful."

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<sup>5</sup> On March 16, 2015, father filed a section 388 petition, requesting that the children be returned to his care. The court set a hearing on the section 388 petition to coincide with the six-month review hearing, then scheduled for April 9, 2015. On August 4, 2015, father withdrew his section 388 petition.



Sophia said she had attended several conjoint therapy sessions with father, but that the sessions were not helpful. During sessions, father would “change his tone of voice and it just reminds me of the past when he would change his tone of voice and get all mad.” She said father got angry at some conjoint sessions, particularly with regard to her grades. When she left the therapy sessions, she would act mad at everything and take out her anger on Yvonne and Henry. If she were ordered to start visits again with her father, she “wouldn’t go.” Sophia said her social worker pushed her to go to conjoint counseling with father “[e]very time I’ve seen her.”

Sophia said Yvonne and Henry encouraged her to attend visits with father, and they never made any negative or disparaging comments about father. Sophia said visits with father were stressful because father “always pressured me to come home, or [tried to make me feel that] it was horrible to stay with Yvonne and Henry, even though in the long run, I love it there. I love everybody there.”

Evan testified that he stopped wanting visits because father repeatedly said bad things about his aunt and uncle. Visits with father were okay at first, but later he felt a lot of pressure because father kept asking whether Evan wanted to live with him and whether it was better living with or without him. During conjoint counseling, father asked questions about Yvonne and Henry, and whether Evan wanted to live with father. Father raised his voice if Evan or Sophia did anything wrong. Evan found father’s questions stressful and said he did not want to live with father anymore “[b]ecause of all the stuff he’s done,” including threatening to take his dogs away, yelling at Evan and

Sophia, and saying bad things about the children, Yvonne, and Henry.

Yvonne testified that when she and Henry tried to get Sophia to visit father, Sophia reacted by “screaming, crying, yelling, locking herself in her room . . . just completely out of control.” Prior to attending conjoint therapy sessions, the kids also were very upset—there was “a lot of yelling, a lot of crying, a lot of being upset.” When they returned from conjoint sessions, “[w]e’d be right back to Evan not sleeping in his room. . . . We had an extra bed in our room, so he was back sleeping in the extra bed. . . . [¶] Just the stress, the yelling, not wanting to get up for school. All the old behavior just came back.”

Yvonne testified that since the children came to live with her, “[t]hey are happy. They are involved. . . . Sophia is reading at a much higher level than when she came to us. Their education has greatly improved. Evan is involved in three sports at this time. He has lots of friends. They just seem – when they’re with us, they just seem carefree. They participate in the home. . . . They just seem like happy kids.” Yvonne said neither child currently was on psychotropic medication. Since stopping the medication, both children were “actually more focused. They are happy. . . . Overall well-being and health has improved.”

Yvonne said Sophia had gotten a job walking a dog for a family friend, but lost the job when father called the friend and “said very damaging things.” The friend said he was fearful because father “sounded crazy. . . . He [the friend] loves Sophia, [but] he was afraid to have her continue to walk his dogs.”

CSW Nahid Alikhan testified that she had been assigned to the children’s case through March 2015. She acknowledged repeated court orders for conjoint counseling, but said it had not

happened as promptly as the court wished because the children refused to attend. She said the caregivers were supportive of the children's visits with the parents.

Sophia's therapist, Deborah Levine, testified that Sophia's individual therapy ceased for a period of time because her coping skills had improved significantly at home, at school, and with peers, and she wanted to take a break. Individual therapy resumed some months later. Levine tried to encourage conjoint therapy because it had been ordered by the case plan, but Sophia repeatedly said she did not want to participate and expressed anxiety by crying, yelling, and clenching her hands.

SCSW Maria Calderon testified that she had supervised the case since its inception. She said when the court ordered conjoint counseling, the children's therapists said the children were not ready. Calderon told the CSW to encourage the children to attend conjoint therapy.

Father's therapist, Robert Buckland, testified that father was learning to reduce his frustration, but said he had never worked with father on communicating with the children, parenting, or the events that precipitated the children's removal from father.

#### *B. Decision and Order*

On March 1, 2016, the juvenile court ordered that the children would not be returned to mother or father, ordered permanent placement services, and set a section 366.26 hearing. The court made detailed findings, as follows:

*Father's compliance with court-ordered case plan.* The court noted that it was required to consider father's compliance with the family reunification plan, as well as whether the reasons for removal had been ameliorated. The court found that although

father had complied with court-ordered individual counseling, he “has not made any progress” addressing case issues. The court explained: [Father] continues to be insulting and demeaning in his conduct. [Father] does not take any responsibility for why his children are before this court. . . . [¶] While he has attended individual counseling for a lengthy period of time, he only addresses his own issues of anxiety and depression. His own therapist testified that they are not addressing family issues.” The court noted that father had not told his therapist that the petition alleged he was inappropriate with his children, and thus “[a]pparently [father was] there [in therapy] for himself only and not to address the issues that brought his children before this court.”

The court continued: “Perhaps [father] will never be in a position to address his conduct which brought his children before this court until he acknowledges his own responsibility, makes substantial progress addressing his own mental health issues, and stops attempting to thwart his children’s needs for an opportunity to have stability. He is still argumentative and demeaning. [¶] . . . [¶] Some examples of [father’s] conduct, which undermine successful reunification:

“He has repeatedly made allegations as to the caretakers, all of which are unfounded. He has accused the uncle of being a molester and being sexually inappropriate with Sophia. He’s accused the uncle of pimping a white bitch. [¶] He made statements to [the owner of the dog Sophia was walking] . . . which caused the owner of the dog to tell Sophia that he no longer wanted her to walk the dog. . . . [¶] . . . [¶]

“These attacks on [the] caretakers sabotaged efforts to progress towards reunification. The children are protective of

their caretakers because the children feel safe, stable, and in a nurturing environment. The children are very aware of the parents' threats to upset this stability[,] and extremely, extremely angry at their parents, and I find with good reason, and perhaps this is the crux of the case. [¶] The children have lived a traumatic lifestyle, and they are now enjoying . . . a safe and stable and nurturing environment, and [see] the parents' conduct continually as attempting to thwart that."

*Detriment.* The court found that Sophia "doesn't feel safe with either of her parents . . . . She doesn't believe [father has] changed. She remembers her father yelling at her and when he was angry at her, threatening to get rid of the dogs. She fears getting depressed like she was before." The court noted that Sophia testified that father "is constantly pressuring her to come home, to tell him that the uncle and aunt are horrible."

The court found that Evan, too, was uncomfortable with father's attacks on his aunt and uncle, and felt father "puts great pressure on him. [Father] asks him so many questions and he raises his voice, and it upsets him." The court noted that when Evan was living with his father, father threatened him, including threatening to give his dogs away. During visits, father had continued to question Evan about his aunt and uncle, which made him uncomfortable. Later, "father said bad things about his aunt and uncle. [Evan] says his father called the social worker on us for no reason. His father tells lies to the social worker."

The court credited Yvonne's testimony that she "encouraged visits. She even told the kids when they didn't want to visit to give it a try. She described Sophia's behavior after visits as screaming, out of control, locking herself in her room,

and Evan feeling stressed, fearful, would no longer sleep in his own bed.” Since the visits stopped, the court said, the children’s behavior and academic performance had improved.

*DCFS’s reasonable efforts.* “As to reasonable efforts, the social workers have attempted to maintain control of the parties and the case. They have encouraged everyone to comply. They have maintained regular contact with the children and the parents. They have made great efforts to get conjoint [counseling] going, [even] if not initially or forthwith, [and] to arrange visits as best they could.

“I find the Department has made reasonable efforts towards reunification by clear and convincing evidence. [¶] The social workers have attempted to regularly engage the children in visits and conjoint counseling. Sophia even testified that she felt pressured by the social worker to visit. I infer that that is very supportive of the social worker’s testifying that they made regular, consistent efforts to arrange visits and . . . for the children to have a relationship with their parents. Sophia felt she was pushed to go. She said the social worker . . . encouraged her to go to conjoint counseling every time the social worker came to see her.”

“[I]n the beginning, visits were arranged regularly and they occurred regularly. . . . The parents’ concerns were regularly addressed. [¶] . . . [¶] Father . . . made numerous allegations against the caretakers. Each and every one of them [was] evaluated. . . . [¶] . . . [¶] . . .

“Supervising social worker Calderon testified that the children adamantly refused conjoint counseling. The evidence supports that she and other social workers discussed the conjoint [counseling] with the individual therapist, encouraged the

children regularly, formulated a plan to encourage, and yet Sophia refused. . . . [¶] While the Department was encouraging the children's individual therapists to get conjoint counseling [started], the therapists said that the children were not ready, and this was on more than one occasion. . . . So the social worker and the individual therapists were not abdicating their responsibility or violating the court's orders. The children have not made sufficient progress to engage in individual counseling."

The court continued: "The court recognizes that conjoint counseling and visitation are critically important to successful reunification. Because of the parents' conduct and the environment to which these children were subjected, the children clearly needed individual counseling and they needed that before . . . conjoint counseling could begin. The children were frequently urged to visit and to participate in conjoint counseling, but the children weren't ready, and it would appear that [father] himself was not ready either because he had not made any progress addressing the case issues."

"[I]n hindsight, perhaps someone of you should have requested the court to find detriment in order to order that there not be any visitation. Nonetheless, Sophia was adamant that she did not want [to] have visits for a long period of time. The last strike with her father was at the soccer game, and that was traumatic to her as a result of her father's conduct.

"Evan more recently resumed visitation[,] perhaps because he has gained a feeling of stability and security with his current caregivers. So no matter what happens, he knows he's going to return to the home and care of [Yvonne and Henry]."

*Legal conclusions and future services.* "Father still does not understand nor appreciate the significance and consequences of

his own conduct, not only before the children were removed from him but after. [¶] Because of the children's experiences with their parents, they continue to have significant resentment towards their parents. [¶] Return of these children to their parents at this time . . . would result in substantial risk of detriment to the children's emotional well-being. [¶] And, therefore, I find by the preponderance of the evidence [that] return of the children to the custody of their parents would create a substantial risk of detriment to their well-being. I do find reasonable efforts have been made towards reunification by clear and convincing evidence. . . . [¶] . . . [¶] I find the children's current placement necessary and appropriate to meet their needs. [¶] I find the Department is complying with the case plan and providing appropriate services to the children and assisting them to have permanency. [¶] Those are the [section 366].21(e) findings and orders." Further, "[b]ecause we are well, well beyond the 18-month date, I must also address the 366.22 issues, and I do adopt and incorporate all of my findings and orders and statements that I have just now made with regard to the [section 366].21(e) hearing, and I order that reunification services be terminated. . . . [¶] . . . [¶] The matter shall be set for a [section] 366.26 selection and implementation hearing."

The court terminated the order for conjoint counseling, granted father monitored visits with Evan every other week for one to two hours, and ordered no visits between father and Sophia "as I find by the preponderance of the evidence that it would be detrimental, and the basis is all of the evidence and my stated decision on the record. . . . [¶] Am I letting her decide? No. I am only taking into consideration her position as a factor in



my decision. So it's the totality of the evidence that causes me to find detriment."

## **XI.**

### **Writ Proceeding**

Father filed a notice of intent to file a petition for writ of mandate on March 2, 2016, and a petition for writ of mandate on June 14, 2016.<sup>6</sup> On June 23, 2016, this court issued an order to show cause and set the matter for hearing. DCFS and the children have separately filed answers to the writ petition.

### **DISCUSSION**

" 'When the child is removed from the home, the court first attempts, for a specified period of time, to reunify the family.' [Citation.] If, after the specified time period has expired, the efforts to reunify the family have failed, 'the court must terminate reunification efforts and set the matter for a hearing pursuant to section 366.26 for the selection and implementation of a permanent plan. (§ 366.21, subd. (g).)' ' [Citation.]" (*Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1008-1009.)

Father's petition for extraordinary writ argues that the juvenile court erred in terminating reunification services and setting a section 366.26 hearing because DCFS did not provide him with reasonable services and the juvenile court improperly delegated to the children the discretion to decide whether visits would take place. Father also contends the juvenile court erred in terminating his visitation with Sophia. We consider these issues below.

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<sup>6</sup> Daphne B. (mother) filed a notice of intent on March 2, 2016, but did not file a writ petition. We ordered this matter dismissed as to her on June 23, 2016.

## I.

### **Substantial Evidence Supported the Juvenile Court’s “Reasonable Services” Finding; Reunification Services Were Properly Terminated**

#### *A. Legal Standards*

When a child is removed from the physical custody of his or her parent, under most circumstances the juvenile court is required to offer or provide family reunification services. (§ 361.5, subd. (a).) Family reunification services are subject to time limitations: For a child who was three years of age or older on the date of the initial removal, court-ordered services generally shall terminate 12 months after the date the child entered foster care. (§ 361.5, subd. (a)(1)(A).)

At status review hearings conducted every six months, the court “shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child.” (§ 366.21, subd. (e)(1).) The parent’s failure to participate regularly and make substantive progress in court-ordered treatment programs “shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker’s report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided.” (*Ibid.*)

If the child is not returned to his or her parent or legal guardian, the court shall determine “whether reasonable services that were designed to aid the parent or legal guardian in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent or legal guardian. The court shall order that those services be initiated, continued, or terminated.” (§ 366.21, subd. (e)(8).) Generally, the remedy for not offering or providing reasonable reunification services is an extension of reunification services to the next review hearing. (*In re J.P.* (2014) 229 Cal.App.4th 108, 120-122.)

We review for substantial evidence the juvenile court’s conclusion that father received reasonable reunification services. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) “[O]ur sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court’s finding that reasonable services were provided or offered.” (*Ibid.*) We “ ‘construe[ ] all reasonable inferences in favor of the juvenile court’s findings regarding the adequacy of reunification plans and the reasonableness of [DCFS’s] efforts.’ ” (*Sara M. v. Superior Court, supra*, 36 Cal.4th at p. 1018.)

#### *B. Visitation*

“An obvious prerequisite to family reunification is regular visits between the noncustodial parent or parents and the dependent children ‘as frequent[ly] as possible, consistent with the well-being of the minor.’ (Welf. & Inst. Code, § 362.1, subd. (a); Cal. Rules of Court, rule 1456(e)(2).)” (*In re Julie M.* (1999) 69 Cal.App.4th 41, 49.) However, “[w]hile visitation is a key element of reunification, the court must focus on the best interests of the children ‘and on the elimination of conditions

which led to the juvenile court's finding that the child has suffered, or is at risk of suffering, harm specified in section 300.' (*In re Moriah T.* (1994) 23 Cal.App.4th 1367, 1376.) This includes the 'possibility of adverse psychological consequences of an unwanted visit between [parent] and child.' (*In re Danielle W.* [(1989)] 207 Cal.App.3d [1227,] 1238.)" (*Id.* at p. 50.)

Father urges the court improperly delegated to the children the power to determine whether visits would occur, and DCFS failed to take steps necessary to provide him regular weekly visitation. For the reasons that follow, we reject both contentions.

1. Improper Delegation

Father contends that although "[o]n paper" the court's orders appeared to provide father a right to visit, in effect they gave the children the power to veto all visits—a power that both children exercised. As such, father argues that the court's visitation order constituted an invalid delegation of judicial power to decide whether visitation will occur.

We do not agree. As our lengthy discussion of the facts of this case illustrates, at no time did the juvenile court permit the children to refuse visitation. Instead, the court continued to order visits right up until the time it terminated reunification services and set a section 366.26 hearing. Further, when faced with the children's resistance to visits, the court ordered individual and conjoint counseling to attempt to address the issues at the root of that resistance and to improve the relationship between father and the children.

## 2. DCFS's Reasonable Efforts to Provide Visitation

Although father appears to acknowledge that regular visitation may be unwarranted if children are fearful of a parent, he asserts that Sophia and Evan were not afraid of him, but simply preferred “to hang out with friends or go surfing.” Under these circumstances, he suggests, DCFS was required to take steps to assure that visitation occurred on a reasonable basis, and its failure to do so constituted a failure to provide him with reasonable services.

We conclude the record contains substantial evidence to support the court’s finding that DCFS made reasonable efforts to facilitate visitation between father and the children. Between October 2013 and June 2014, visits between father and the children were arranged and occurred regularly. In about June 2014, however, the children began resisting regular visitation; and after father accused Henry of sexual abuse in January 2015 in an apparent attempt to have the children removed from Yvonne and Henry’s home, they refused visits entirely.<sup>7</sup>

When the children began refusing to visit with father, DCFS did not “wipe[] its hands of any responsibility regarding the court’s weekly visitation orders”, but instead actively worked to restart visits. Among other things, the social workers counseled the caregivers that “[p]arent visits take precedence

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<sup>7</sup> Father asserts in his opening brief that “it was not father who called in the referral,” but this does not appear to be correct. Although one of the CSW’s testified that mother made the allegation (after testifying that she did not know who the reporter was), DCFS’s contemporaneous records indicate that father was the reporter.

over everything unless it is school and counseling”; held CFT meetings in December 2014 and January 2015 to address visitation; provided visit monitors; and regularly encouraged the children to attend visits. DCFS also provided both children with extensive individual counseling to attempt to overcome their reluctance to seeing father and arranged for conjoint counseling sessions between father and the children in December 2014/January 2015 and August/September 2015, and discussed visitation with the children’s therapists.

The reasonableness of DCFS’s efforts to facilitate visitation must be viewed “in the context of the family dynamics in play.” (*In re Brittany C.* (2011) 191 Cal.App.4th 1343, 1356.) Here, both children were suffering significant emotional harm when they entered foster care: Sophia was suffering from depression, daily crying episodes, headaches, and stomach pains; and Evan had been diagnosed with PTSD and an anxiety disorder, which manifested as excessive worrying, hypervigilance, and phobias. There was substantial evidence that visits with father increased the children’s anxiety and exacerbated their emotional difficulties. Sophia said visits with father were extremely stressful because father pressured her to tell him that living with her aunt and uncle was “horrible” and that she wanted to move home with him—even though she believed moving back with father would harm her emotionally. Evan’s testimony was similar: He said visits with father were stressful and upsetting because father raised his voice, said negative things about Yvonne and Henry, and asked Evan whether it was better living with or without father. Thus, under the circumstances of this case, DCFS acted entirely reasonably by attempting to address

the children's opposition to visits through counseling and other psychological support.

Moreover, the case law is clear that “ ‘the child's input and refusal and the possible adverse consequences if a visit is forced against the child's will are factors to be considered in administering visitation.’ ” (*In re Brittany C.*, *supra*, 191 Cal.App.4th at p. 1356, quoting *In re S.H.* (2003) 111 Cal.App.4th 310, 317; see also *In re Julie M.*, *supra*, 69 Cal.App.4th at p. 51 [a child's aversion to visiting an abusive parent may be a “dominant” factor in administering visitation].) In the present case, both children's therapists repeatedly opined against requiring the children to visit father, noting that such visits “appear[] to be counterproductive to the enhancement of the parent-child relationship as evidenced by Evan and Sophia's reported decreased desire to have contact with [father].” Under these circumstances, it was not unreasonable for DCFS to conclude that forcing the children to visit father against their will likely would have damaged the parent-child relationship.

### *C. Conjoint Counseling*

Father also contends he did not receive reasonable reunification services because DCFS did not promptly or consistently provide conjoint counseling. Specifically, father asserts DCFS did not timely initiate conjoint counseling after the court ordered it in October 2014, and did not continue counseling beyond a few sessions offered in December 2014. Father is wrong on both counts.

Father notes that on October 9, 2014, the juvenile court ordered conjoint counseling to begin “forthwith.” Conjoint counseling did not begin until December 2014, a delay that father urges was unreasonable. We do not agree that in the

circumstances of this case, the two month delay was unreasonable—particularly in light of the fact that reunification services continued for an additional 15 months *after* the conjoint counseling commenced.

Father also contends there was “a lack of any actual efforts by the Department to maintain conjoint counseling beyond the first session or two” in December 2014, which he urges was an abrogation of DCFS’s obligation to provide reasonable services. Again, we do not agree. Conjoint counseling can be an important tool of reunification, but it not a magic bullet—to the contrary, requiring children to participate in conjoint counseling before it is clinically indicated can, in some cases, cause emotional damage to abused or neglected children or further harm the parent-child relationship. (E.g., *In re Mark L.* (2001) 94 Cal.App.4th 573, 581 [“The focus of dependency law is on the well-being of the child, and we do not fault the court for determining forced contact with [father] may harm [the minor] emotionally.”].)

Here, the record indicates there were four conjoint sessions with father in December 2014, and that the sessions were put on hold in mid-January 2015 at the recommendation of the children’s therapists. There was persuasive evidence that conjoint counseling was taking a heavy psychological toll on both children: In mid-January 2015, the children’s therapists advised DCFS that as a result of the conjoint therapy sessions, Evan’s anxiety had increased and Sophia was having more angry outbursts. There also was evidence that conjoint therapy was further damaging, not healing, the parent-child relationship: Sophia testified that conjoint sessions left her feeling upset because father would “change his tone of voice and it would just remind me of the past when he would change his tone of voice



and get all mad.” Evan’s testimony was similar: He said conjoint counseling made him feel “upset kind of” because father would raise his voice and “ask questions about my aunt and uncle.” For these reasons, both children’s therapists recommended temporarily halting conjoint therapy. DCFS’s decision to put conjoint therapy on hold thus was not unreasonable—to the contrary, it was consistent with the goals of allowing the children and the family to heal.

Suspending conjoint therapy, however, did not mean that DCFS abandoned efforts towards reunification. To the contrary, after conjoint therapy was put on hold, DCFS continued to provide both children with individual therapy on a weekly basis during most of 2015; during those sessions, the children’s therapists worked with the children on case issues, and specifically encouraged the children to restart conjoint therapy with father. The CSW’s, too, regularly encouraged the children to attend conjoint counseling—according to Sophia, her social worker pushed her to go to conjoint counseling with father “[e]very time I’ve seen her.” Despite these efforts, the children continued to refuse conjoint counseling. Their refusal was accompanied by demonstrations of extreme distress.<sup>8</sup>

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<sup>8</sup> As described by the CSW, Sophia “was adamant and said she was not doing it. Sophia[,] very upset [and] flushed in the face, stated, ‘I’m not ready to see him, I don’t want to see him. He ruins everything! If we begin conjoint therapy he is going to start crap again. . . . I’m not doing it!’ [The] CSW asked what [father] could do or change in order for Sophia to want to see him. Sophia said she did not know and repeated she did not want to see him or speak to [father]. CSW asked Sophia to think about it and think about giving conjoint counseling one last attempt. CSW reminded Sophia they can do once a month to start off.

Because both children remained vehemently opposed to conjoint therapy, the therapists recommended against restarting it, noting that “[i]t has been our experience in working with Evan and Sophia that the history of monitored and unmonitored contact between the children and [parents] appears to have been counterproductive to the enhancement of the parent/child relationship as evidenced by Evan and Sophia’s reported refusal to have contact with them.” Nonetheless, at the court’s direction, a further attempt at conjoint counseling was made in September 2015; following that session, Sophia reported feeling uncomfortable with the way father questioned her about school, grades, medicine, and visits, and the therapist subsequently recommended against further conjoint therapy at that time. Under these circumstances, DCFS’s decision to suspend conjoint counseling and focus on individual therapy for both children was not unreasonable. (See, e.g., *In re Brittany C.*, *supra*, 191 Cal.App.4th at p. 1357 [DCFS did not act unreasonably in suspending conjoint therapy between parents and children where “neither the children nor the parent-child relationship benefited from the therapy.”]; *In re Andrea G.* (1990) 221 Cal.App.3d 547, 555-556 [no abuse of discretion in refusing to order conjoint therapy where “[m]uch work needs to be done before conjoint therapy could be successful.”].)

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Sophia shook her head saying ‘no.’ ” Evan showed similar signs of agitation; when the CSW raised the issue, he got upset and said he would not like to see father and would not agree to attend conjoint counseling because his father begins yelling and Evan did not want to hear him yell.

## II.

### **The Juvenile Court Did Not Err by Terminating Father's Visitation with Sophia**

Once a court schedules a hearing pursuant to section 366.26, it shall order the termination of reunification services to the parent, but “shall continue to permit the parent or legal guardian to visit the child pending the hearing unless it finds that visitation would be detrimental to the child.” (§ 366.21, subd. (h).) Here, upon terminating reunification services, the juvenile court made a finding that continued visitation with father would be detrimental to Sophia, a finding father urges was not supported by substantial evidence.

We do not agree. Sophia testified that visits with father were “too stressful” and caused her to feel “stressed out later or depressed or mad.” She explained that “seeing him and then having to . . . think about, like, everything that happened . . . just makes me kind of upset.” Sophia’s therapist confirmed Sophia’s self-report: In April 2015, Sophia’s therapist said that contact with father and forced conjoint therapy was causing Sophia “chronic stress” and “significant[ly] impact[ing] [her] socio-emotional functioning, interpersonal relationships, academic performance, and overall well-being.” The therapist recommended that to best assist Sophia to “meet [her] treatment goals of learning to engage in healthy and adaptive coping skills and meet age appropriate developmental milestones,” father should “acknowledge and respect [Sophia’s] stated desires, thoughts and feelings”—i.e., her desire “*not* . . . to have structured face to face and telephone contact.” Subsequently, the therapist testified that Sophia expressed great distress as a result of visits and phone calls with father, noting that while

discussing the visits and phone calls, Sophia would “sometimes cry[], sometimes yell[] . . . she would get very irritable and tense, clenching her hands, just getting tearful, and expressing her distress.” Taken together, this is abundant evidence that continued visitation with father would be detrimental to Sophia.

### **DISPOSITION**

The petition for extraordinary writ is denied on the merits, and the stay of the section 366.26 hearing, issued by this court on June 23, 2016, is vacated. Our decision is immediately final as to this court. (Cal. Rules of Court, rules 8.452(i), 8.490(b)(2)(A).)

### **NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

EDMON, P. J.

We concur:

LAVIN, J.

STRATTON, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.